IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 387/2005

Shri Ramkrishna S. Mageshkar. ..... Petitioner.

V/s.

The State of Goa through the
Chief Secretary and ors. ..... Respondents.

Shri Nitin Sardessai, Advocate for the petitioner.

Shri S. R. Rivonkar, Government Advocate for the respondents.

CORAM : R.M. LODHA &
N.A. BRITTO, JJ.

DATE : 10TH OCTOBER, 2005.

P.C.

Heard the learned Counsel for the petitioner .

2. The petitioner, on the recommendation of the Departmental Promotion Committee, was appointed as Police Sub-Inspector initially on probation of 2 years vide Order dated 14.6.2002. On 21.3.2005, the petitioner was placed under suspension. By Order dated 19.5.2005 (page 25 of the paper book), the petitioner's suspension was revoked. On that very day, by Order dated 19.5.2005 (page 26), the petitioner has been terminated from the service.

Aggrieved by the Order dated 19.5.2005 (page 26), the present petition has been filed.

3. The thrust of the contention of the learned Counsel for the petitioner is that the impugned order of termination is founded on the inquiry of misconduct held behind petitioner's back. The petitioner was not given any opportunity to deal with the statements that were recorded during the inquiry and now in colourable exercise of the power, the petitioner has been terminated from the service by the impugned order. In his support, the learned Counsel relied upon the Judgment of the Supreme Court in the case of **Chandra Prakash Shahi v. State of U.P. And ors.,** (2005) 5 SCC 152.

4. It is not in dispute that during the probation period, a criminal case under Sections 120-B, 409, 201 of the Indian Penal Code and Section 13(1)(c) of Prevention of Corruption Act, 1988 has been registered against the petitioner and that the petitioner is being prosecuted in the said criminal case. In pursuance of the proviso to Rule 5 (1) of the Central Civil Services (Temporary Services) Rules, 1965, petitioner's services have been brought to an end by the Order dated 19.5.2005. Rule 5 of the Central Civil Services (Temporary Services) Rules, 1965 deals with termination of the temporary service. It provides that services of a temporary Government servant may be terminated by a written notice of one

month. The proviso thereto provides that the services of any such Government servant may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay and the allowances for the notice period. The impugned order on its face cannot be said to be stigmatic. It is true that initially the disciplinary authority decided to hold enquiry into the allegations of misconduct but then the said course was dropped. The petitioner being probationer, his services could be terminated under Rules of 1965. The termination is termination simplicitor.

5. The question of examining suitability of the petitioner, as contended by the leaned Counsel for the petitioner, did not arise because admittedly, during the probation period the petitioner is being prosecuted in a criminal case under Sections 120-B, 409, 201 of the Indian Penal Code and Section 13(1)(c) of Prevention of Corruption Act.

6. Having considered overall facts and circumstances of the case, we are satisfied that no case for interference is made out in the present writ petition. Dismissed in limine.

R.M. LODHA, J.

N.A. BRITTO, J.

ssm